

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT CORRECTING AN OVERSIGHT IN SENATE BILL NO. 276, ENACTED AS CHAPTER 559, LAWS OF 2005, BY PROVIDING A STATUTORY APPROPRIATION FOR THE DISTRIBUTION OF BENTONITE PRODUCTION TAXES TO COUNTIES; AMENDING SECTIONS 15-39-110 AND 17-7-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-39-110, MCA, is amended to read:

"15-39-110. Distribution of taxes -- appropriation. (1) (a) For each semiannual period, the department shall determine the amount of tax, late payment interest, and penalties collected under this part from bentonite mines that produced bentonite before January 1, 2005. The tax is distributed as provided in subsections (2) through (12).

(b) For each semiannual period, the department shall determine the amount of tax, late payment interest, and penalties collected under this part from bentonite mines that first began producing bentonite after December 31, 2004. The tax is distributed as provided in subsection (13).

(2) For the production of bentonite occurring after December 31, 2004, and before January 1, 2006, the tax determined under subsection (1)(a) is allocated according to the following schedule:

(a) 2.33% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 20-25-423;

(b) 18.14% to the state general fund to be appropriated for the purposes of the tax levies as provided in 20-9-331, 20-9-333, and 20-9-360;

(c) 3.35% to Carbon County to be distributed in proportion to current fiscal year mill levies in the taxing jurisdictions in which production occurs, except a distribution may not be made for county and state levies under 20-9-331, 20-9-333, 20-9-360, and 20-25-423; and

(d) 76.18% to Carter County to be distributed in proportion to current fiscal year mill levies in the taxing jurisdictions in which production occurs, except a distribution may not be made for county and state levies under

1 20-9-331, 20-9-333, 20-9-360, and 20-25-423.

2 (3) For the production of bentonite occurring after December 31, 2005, and before January 1, 2007,
3 90% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 10%
4 must be distributed as provided in subsection (13).

5 (4) For the production of bentonite occurring after December 31, 2006, and before January 1, 2008,
6 80% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 20%
7 must be distributed as provided in subsection (13).

8 (5) For the production of bentonite occurring after December 31, 2007, and before January 1, 2009,
9 70% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 30%
10 must be distributed as provided in subsection (13).

11 (6) For the production of bentonite occurring after December 31, 2008, and before January 1, 2010,
12 60% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 40%
13 must be distributed as provided in subsection (13).

14 (7) For the production of bentonite occurring after December 31, 2009, and before January 1, 2011,
15 50% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 50%
16 must be distributed as provided in subsection (13).

17 (8) For the production of bentonite occurring after December 31, 2010, and before January 1, 2012,
18 40% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 60%
19 must be distributed as provided in subsection (13).

20 (9) For the production of bentonite occurring after December 31, 2011, and before January 1, 2013,
21 30% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 70%
22 must be distributed as provided in subsection (13).

23 (10) For the production of bentonite occurring after December 31, 2012, and before January 1, 2014,
24 20% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 80%
25 must be distributed as provided in subsection (13).

26 (11) For the production of bentonite occurring after December 31, 2013, and before January 1, 2015,
27 10% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 90%
28 must be distributed as provided in subsection (13).

29 (12) For the production of bentonite occurring in tax years beginning after December 31, 2014, 100%
30 of the tax determined under subsection (1)(a) must be distributed as provided in subsection (13).

(13) For the production of bentonite, 100% of the tax determined under subsection (1)(b) and the distribution percentages determined under subsections (3) through (12) are allocated according to the following schedule:

(a) 1.30% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 20-25-423;

(b) 20.75% to the state general fund to be appropriated for the purposes of the tax levies as provided in 20-9-331, 20-9-333, and 20-9-360;

(c) 77.95% to the county in which production occurred to be distributed in proportion to current fiscal year mill levies in the taxing jurisdictions in which production occurs, except a distribution may not be made for county and state levies under 15-10-107, 20-9-331, 20-9-333, 20-9-360, and 20-25-423.

(14) The department shall remit the amounts to be distributed in this section to the county treasurer by the following dates:

(a) On or before October 1 of each year, the department shall remit the county's share of bentonite production tax payments received for the semiannual period ending June 30 of the current year to the county treasurer.

(b) On or before April 1 of each year, the department shall remit the county's share of bentonite production tax payments received to the county treasurer for the semiannual period ending December 31 of the previous year.

(15) The distributions to counties under this section are statutorily appropriated, as provided in 17-7-502, from the state special revenue fund.

~~(15)~~(16) (a) The department shall also provide to each county the amount of gross yield of value from bentonite, including royalties, for the previous calendar year. Thirty-three and one-third percent of the gross yield of value must be treated as taxable value for county classification purposes under 7-1-2111 and for determining school district debt limits under 20-9-406.

(b) The percentage amount of the gross yield of value determined under subsection ~~(15)(a)~~ (16)(a) must be treated as assessed value under 15-8-111 for the purposes of local government debt limits and other bonding provisions as provided by law."

Section 2. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory

1 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without
2 the need for a biennial legislative appropriation or budget amendment.

3 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both
4 of the following provisions:

5 (a) The law containing the statutory authority must be listed in subsection (3).

6 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
7 appropriation is made as provided in this section.

8 (3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105;
9 5-11-407; 5-13-403; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121;
10 15-23-706; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-38-202; 15-39-110; 15-65-121; 15-70-101;
11 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112;
12 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604;
13 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-4-202; 23-4-204; 23-4-302; 23-4-304;
14 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105;
15 44-1-504; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 60-11-115; 61-3-415;
16 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518;
17 82-11-161; 87-1-513; 90-1-115; 90-1-205; 90-3-1003; and 90-9-306.

18 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
19 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
20 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
21 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
22 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
23 appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of
24 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360,
25 L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's
26 unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates
27 July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion
28 of 15-35-108 terminates June 30, 2010; pursuant to sec. 13(1), Ch. 223, L. 2005, the inclusion of 2-15-151
29 terminates December 31, 2006, and the inclusion of 90-1-115 becomes effective December 31, 2006; pursuant
30 to sec. 7, Ch. 314, L. 2005, the inclusion of 23-4-105, 23-4-202, 23-4-204, 23-4-302, and 23-4-304 becomes

1 effective July 1, 2007; and pursuant to sec. 17, Ch. 593, L. 2005, the inclusion of 15-31-906 terminates January
2 1, 2010.)"

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4 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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6 NEW SECTION. **Section 4. Retroactive applicability.** [This act] applies retroactively, within the
7 meaning of 1-2-109, to the distribution of bentonite production taxes made after June 30, 2005.

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